10-1-101. Short title.

This act shall be known and may be cited as the "Utah Municipal Code." In enacting this code, it is the legislative intent to repeal only those provisions of Utah law set forth in Section 10-1-114. It is the legislative intent to review, modernize and incorporate into this code in later sessions other provisions of Utah law relating to municipalities not included in this act. Provisions of Utah law not specifically repealed shall continue in effect.

Enacted by Chapter 48, 1977 General Session

10-1-102. Effective date.

This act shall become effective July 1, 1977.

Enacted by Chapter 48, 1977 General Session

10-1-103. Construction.

The powers herein delegated to any municipality shall be liberally construed to permit the municipality to exercise the powers granted by this act except in cases clearly contrary to the intent of the law.

Enacted by Chapter 48, 1977 General Session

10-1-104. Definitions.

As used in this title:

(1) "City" means a municipality that is classified by population as a city of the first class, a city of the second class, a city of the third class, a city of the fourth class, or a city of the fifth class, under Section 10-2-301.

(2) "Contiguous" means:

(a) if used to described an area, continuous, uninterrupted, and without an island of territory not included as part of the area; and

(b) if used to describe an area's relationship to another area, sharing a common boundary.

(3) "Governing body" means collectively the legislative body and the executive of any municipality. Unless otherwise provided:

(a) in a city of the first or second class, the governing body is the city commission;

(b) in a city of the third, fourth, or fifth class, the governing body is the city council; and

(c) in a town, the governing body is the town council.

(4) "Municipal" means of or relating to a municipality.

(5) "Municipality" means a city of the first class, city of the second class, city of the third class, city of the fourth class, city of the fifth class, or a town, as classified in Section 10-2-301.

(6) "Peninsula," when used to describe an unincorporated area, means an area surrounded on more than 1/2 of its boundary distance, but not completely, by incorporated territory and situated so that the length of a line drawn across the

unincorporated area from an incorporated area to an incorporated area on the opposite side shall be less than 25% of the total aggregate boundaries of the unincorporated area.

(7) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(8) "Provisions of law" shall include other statutes of the state of Utah and ordinances, rules, and regulations properly adopted by any municipality unless the construction is clearly contrary to the intent of state law.

(9) "Recorder," unless clearly inapplicable, includes and applies to a town clerk.

(10) "Town" means a municipality classified by population as a town under Section 10-2-301.

(11) "Unincorporated" means not within a municipality.

Amended by Chapter 292, 2003 General Session

10-1-105. No changes intended.

Unless otherwise specifically provided in this act, the provisions of this act may not operate in any way to affect the property or contract rights or other actions which may exist in favor of or against any municipality. Nor shall this act operate in any way to change or affect any ordinance, order or resolution in force in any municipality and such ordinances, orders and resolutions which are not repugnant to law, shall continue in full force and effect until repealed or amended.

Amended by Chapter 378, 2010 General Session

10-1-106. Scope of act.

This act shall apply to all municipalities incorporated or existing under the law of the State of Utah except as otherwise specifically excepted by the home rule provisions of Article XI, Section 5 of the Constitution of the State of Utah.

Enacted by Chapter 48, 1977 General Session

10-1-107. Municipalities.

All municipalities which have been incorporated under any previous act of the United States or of the State of Utah shall be treated as properly incorporated under this act.

Enacted by Chapter 48, 1977 General Session

10-1-108. Cumulative powers -- Powers not in derogation of state agencies.

The provisions of this act or any other act not expressly repealed by Section 10-1-114 shall be considered as an alternative or additional power and not as a limitation on any other power granted to or possessed by municipalities. The provisions of this act may not be considered as impairing, altering, modifying or repealing any of the jurisdiction or powers possessed by any department, division, commission, board,

or office of state government.

Amended by Chapter 378, 2010 General Session

10-1-109. Saving clause.

The repeal of the titles, chapters and sections specified in Section 10-1-114 do not:

(1) affect suits pending or rights existing immediately prior to the effective date of this act;

(2) impair, avoid, or affect any grant or conveyance made or right acquired or cause of action now existing under any repealed act or amendment thereto; or

(3) affect or impair the validity of any bonds or other obligation issued or sold prior to the effective date of this act.

The repeal of any validating act or part thereof does not avoid the effect of the validation. No act repealed by Section 10-1-114 shall repeal any act or part thereof which embraces the same or similar subject matter as the act repealed.

Amended by Chapter 378, 2010 General Session

10-1-110. Continuation of prior law.

The provisions of this act insofar as they are the same or substantially the same as those of any prior statute shall be construed as a continuation of the prior statute and not as a new enactment. If any other statutory reference is made to an act of the Legislature or a section of such an act, which is continued in this act, the reference shall be held to refer to the act or section thereof so continued in this act.

Amended by Chapter 4, 1993 General Session

10-1-111. Existing indebtedness.

Any bond or other evidence of indebtedness issued under the provisions of any act repealed by this act which is outstanding and unpaid as of July 1, 1977, shall be amortized and retired by taxation or revenue in the manner provided by the act under which such indebtedness was incurred, notwithstanding repeal or change of the act.

Enacted by Chapter 48, 1977 General Session

10-1-112. Headings do not limit sections.

Title, chapter, part, or section headings contained herein may not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter, part or section of this act.

Amended by Chapter 378, 2010 General Session

10-1-113. Severability clause.

If any chapter, part, section, paragraph or subsection of this act, or the application thereof is held to be invalid, the remainder of this act is not affected thereby.

Amended by Chapter 378, 2010 General Session

10-1-114. Repealer.

Title 10, Chapter 1, General Provisions; Chapter 2, Incorporation, Classification, Boundaries, Consolidation, and Dissolution of Municipalities; Chapter 3, Municipal Government; Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; and Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, are repealed, except as provided in Section 10-1-115.

Amended by Chapter 189, 2014 General Session

10-1-115. Legislation enacted by Legislature.

Nothing in this act shall be construed to repeal any section of the various laws of which this act is comprised when the section is the subject of an amendment or new legislation enacted by this 42nd session of the Utah legislature and which becomes law. Furthermore, it is the intent of the legislature that the corresponding sections of this act shall be construed with such amended sections so as to give effect to the amendment as if it were made a part of this act.

Enacted by Chapter 48, 1977 General Session

10-1-118. Changing the name of a municipality.

(1) A municipality may change its name as provided in this section.

(2) To initiate a name change, the legislative body of a municipality shall:

(a) adopt an ordinance or resolution approving a name change; and

(b) file with the lieutenant governor a copy of a notice of an impending name change, as defined in Section 67-1a-6.7, that meets the requirements of Subsection 67-1a-6.7(3).

(3) Upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7, the municipal legislative body shall:

(a) if the municipality is located within the boundary of a single county, submit to the recorder of that county:

(i) the original:

(A) notice of an impending name change; and

(B) certificate of name change; and

(ii) a certified copy of the ordinance or resolution approving the name change; or

(b) if the municipality is located within the boundaries of more than a single county:

(i) submit to the recorder of one of those counties:

(A) the original of the documents listed in Subsections (3)(a)(i)(A) and (B); and

(B) a certified copy of the ordinance or resolution approving the name change; and

(ii) submit to the recorder of each other county:

(A) a certified copy of the documents described in Subsections (3)(a)(i)(A) and (B); and

(B) a certified copy of the ordinance or resolution approving the name change.

(4) (a) The name change becomes effective upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7.

(b) Notwithstanding Subsection (4)(a), the municipality may not operate under the new name until the documents listed in Subsection (3) are recorded in the office of the recorder of each county in which the municipality is located.

Amended by Chapter 350, 2009 General Session

10-1-119. Inventory of competitive activities.

(1) As used in this section:

(a) "Applicable city" means:

(i) on and after July 1, 2009, a city of the first class; and

(ii) on and after July 1, 2010, a city of the first or second class.

(b) "Competitive activity" means an activity engaged in by a city or an entity created by the city by which the city or an entity created by the city provides a good or service that is substantially similar to a good or service that is provided by a person:

(i) who is not an entity of the federal government, state government, or a political subdivision of the state; and

(ii) within the boundary of the county in which the city is located.

(c) (i) Subject to Subsection (1)(c)(ii), "entity created by the city" includes:

(A) an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, in which the city participates; and

(B) a special service district created under Title 17D, Chapter 1, Special Service District Act.

(ii) "Entity created by the city" does not include a local district created by a city under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(2) (a) The governing body of an applicable city shall create an inventory of activities of the city or an entity created by the city to:

(i) classify whether an activity is a competitive activity; and

(ii) identify efforts that have been made to privatize aspects of the activity.

(b) An applicable city shall comply with this section by no later than:

(i) June 30, 2010, if the applicable city is a city of the first class; and

(ii) June 30, 2011, if the applicable city is a city of the second class.

(3) The governing body of an applicable city shall update the inventory created under this section at least every two years.

(4) An applicable city shall:

(a) provide a copy of the inventory and an update to the inventory to the Free Market Protection and Privatization Board created in Title 63I, Chapter 4a; and

(b) make the inventory available to the public through electronic means.

Amended by Chapter 189, 2014 General Session

10-1-201. Municipalities as political subdivisions of the state.

Municipalities shall be political subdivisions of the State of Utah, municipal corporations, and bodies politic with perpetual existence unless disincorporated

according to law.

Enacted by Chapter 48, 1977 General Session

10-1-202. Power to sue, contract, adopt municipal name and seal.

Municipalities may sue and be sued, enter into contracts and by ordinance adopt a municipal name and seal which may be changed from time to time.

Enacted by Chapter 48, 1977 General Session

10-1-203. License fees and taxes -- Application information to be transmitted to the county assessor.

(1) As used in this section:

(a) "Business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(b) "Telecommunications provider" is as defined in Section 10-1-402.

(c) "Telecommunications tax or fee" is as defined in Section 10-1-402.

(2) Except as provided in Subsections (3) through (5), the legislative body of a municipality may license for the purpose of regulation and revenue any business within the limits of the municipality and may regulate that business by ordinance.

(3) (a) The legislative body of a municipality may raise revenue by levying and collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal Energy Sales and Use Tax Act.

(b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined in Subsection 10-1-303(6), that is in effect on July 1, 1997, or a future franchise.

(ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1, 1997, or a future franchise shall remain in full force and effect.

(c) A municipality that collects a contractual franchise fee pursuant to a franchise agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

(d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain a provision that:

(A) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

(B) imposes the contractual franchise fee on or after the day on which Part 3, Municipal Energy Sales and Use Tax Act is:

(I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305 is reduced; and

(II) is not superseded by a law imposing a substantially equivalent tax.

(ii) A municipality may not charge a contractual franchise fee under the

provisions permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.

(4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a municipality may raise revenue by levying and providing for the collection of a municipal telecommunications license tax as provided in Part 4, Municipal Telecommunications License Tax Act.

(b) A municipality may not levy or collect a telecommunications tax or fee on a telecommunications provider except as provided in Part 4, Municipal Telecommunications License Tax Act.

(5) (a) (i) The legislative body of a municipality may by ordinance raise revenue by levying and collecting a license fee or tax on:

(A) a parking service business in an amount that is less than or equal to:

(I) $1 per vehicle that parks at the parking service business; or

(II) 2% of the gross receipts of the parking service business;

(B) a public assembly or other related facility in an amount that is less than or equal to $5 per ticket purchased from the public assembly or other related facility; and

(C) subject to the limitations of Subsections (5)(c) and (d):

(I) a business that causes disproportionate costs of municipal services; or

(II) a purchaser from a business for which the municipality provides an enhanced level of municipal services.

(ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to levy or collect a license fee or tax on a public assembly or other related facility owned and operated by another political subdivision other than a community development and renewal agency without the written consent of the other political subdivision.

(b) As used in this Subsection (5):

(i) "Municipal services" includes:

(A) public utilities; and

(B) services for:

(I) police;

(II) fire;

(III) storm water runoff;

(IV) traffic control;

(V) parking;

(VI) transportation;

(VII) beautification; or

(VIII) snow removal.

(ii) "Parking service business" means a business:

(A) that primarily provides off-street parking services for a public facility that is wholly or partially funded by public money;

(B) that provides parking for one or more vehicles; and

(C) that charges a fee for parking.

(iii) "Public assembly or other related facility" means an assembly facility that:

(A) is wholly or partially funded by public money;

(B) is operated by a business; and

(C) requires a person attending an event at the assembly facility to purchase a

ticket.

(c) (i) Before the legislative body of a municipality imposes a license fee on a business that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the legislative body of the municipality shall adopt an ordinance defining for purposes of the tax under Subsection (5)(a)(i)(C)(I):

(A) the costs that constitute disproportionate costs; and

(B) the amounts that are reasonably related to the costs of the municipal services provided by the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to the costs of the municipal services provided by the municipality.

(d) (i) Before the legislative body of a municipality imposes a license fee on a purchaser from a business for which it provides an enhanced level of municipal services under Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

(A) the level of municipal services that constitutes the basic level of municipal services in the municipality; and

(B) the amounts that are reasonably related to the costs of providing an enhanced level of municipal services in the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to the costs of providing an enhanced level of the municipal services.

(6) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.

(7) The municipality shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.

(8) If challenged in court, an ordinance enacted by a municipality before January 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld unless the business license fee is found to impose an unreasonable burden on the fee payer.

Amended by Chapter 189, 2014 General Session

10-1-203.5. Disproportionate rental fee -- Good landlord training program -- Fee reduction.

(1) As used in this section:

(a) "Business" means the rental of one or more residential units within a municipality.

(b) "Disproportionate rental fee" means a fee adopted by a municipality to recover its disproportionate costs of providing municipal services to residential rental units compared to similarly-situated owner-occupied housing.

(c) "Disproportionate rental fee reduction" means a reduction of a disproportionate rental fee as a condition of complying with the requirements of a good landlord training program.

(d) "Exempt business" means the rental of a residential unit within a single structure that contains:

(i) no more than four residential units; and

(ii) one unit occupied by the owner.

(e) "Exempt landlord" means a residential landlord who demonstrates to a municipality:

(i) completion of any live good landlord training program offered by any other Utah city that offers a good landlord program;

(ii) that the residential landlord has a current professional designation of "property manager"; or

(iii) compliance with a requirement described in Subsection (4).

(f) "Good landlord training program" means a program offered by a municipality to encourage business practices that are designed to reduce the disproportionate cost of municipal services to residential rental units by offering a disproportionate rental fee reduction for any landlord who:

(i) (A) completes a landlord training program provided by the municipality; or

(B) is an exempt landlord;

(ii) implements measures to reduce crime in rental housing as specified in a municipal ordinance or policy; and

(iii) operates and manages rental housing in accordance with an applicable municipal ordinance.

(g) "Municipal services" means:

(i) public utilities;

(ii) police;

(iii) fire;

(iv) code enforcement;

(v) storm water runoff;

(vi) traffic control;

(vii) parking;

(viii) transportation;

(ix) beautification; or

(x) snow removal.

(h) "Municipal services study" means a study of the cost of all municipal services to rental housing that:

(i) are reasonably attributable to the rental housing; and

(ii) exceed the municipality's cost to serve similarly-situated, owner-occupied housing.

(2) The legislative body of a municipality may charge and collect a disproportionate rental fee on a business that causes disproportionate costs to municipal services if the municipality:

(a) has performed a municipal services study; and

(b) adopts a disproportionate rental fee that does not exceed the amount that is justified by the municipal services study on a per residential rental unit basis.

(3) A municipality may not:

(a) impose a disproportionate rental fee on an exempt business;

(b) require a landlord to deny tenancy to an individual released from probation or parole whose conviction date occurred more than four years before the date of tenancy; or

(c) without cause and notice, require a landlord to submit to a random building

inspection.

(4) In addition to a requirement or qualification described in Subsection (1)(e), a municipality may recognize a landlord training described in its ordinance.

(5) (a) If a municipality adopts a good landlord program, the municipality shall provide an appeal procedure affording due process of law to a landlord who is denied a disproportionate rental fee reduction.

(b) A municipality may not adopt a new disproportionate rental fee unless the municipality provides a disproportionate rental fee reduction.

Enacted by Chapter 289, 2012 General Session

10-1-301. Title.

This part shall be known as the "Municipal Energy Sales and Use Tax Act."

Enacted by Chapter 280, 1996 General Session

10-1-302. Purpose and intent.

The Legislature finds that:

(1) the energy industry has previously been highly regulated and monopolistic;

(2) municipalities have historically raised town or city, respectively, general fund revenues by collecting franchise and business license revenues from the energy industry;

(3) substantial restructuring of the energy industry has created an opportunity for increased competition within the energy industry;

(4) the restructuring of the energy industry has diminished the effectiveness and fairness of the revenues collected by municipalities;

(5) to provide for a stable revenue source for municipalities and to create a more competitive environment for the energy industry, it is necessary to enact taxing authority for municipalities that accomplishes those goals; and

(6) this part does not alter or affect the municipalities' authority to grant or regulate franchises, or to control municipal streets, highways, or other property.

Amended by Chapter 176, 2014 General Session

10-1-303. Definitions.

As used in this part:

(1) "Commission" means the State Tax Commission.

(2) "Contractual franchise fee" means:

(a) a fee:

(i) provided for in a franchise agreement; and

(ii) that is consideration for the franchise agreement; or

(b) (i) a fee similar to Subsection (2)(a); or

(ii) any combination of Subsections (2)(a) and (b).

(3) (a) "Delivered value" means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:

(i) the value of the energy itself; and

(ii) any transportation, freight, customer demand charges, services charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality.

(b) "Delivered value" does not include the amount of a tax paid under:

(i) Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) this part.

(4) "De minimis amount" means an amount of taxable energy that does not exceed the greater of:

(a) 5% of the energy supplier's estimated total Utah gross receipts from sales of property or services; or

(b) $10,000.

(5) "Energy supplier" means a person supplying taxable energy, except that the commission may by rule exclude from this definition a person supplying a de minimis amount of taxable energy.

(6) "Franchise agreement" means a franchise or an ordinance, contract, or agreement granting a franchise.

(7) "Franchise tax" means:

(a) a franchise tax;

(b) a tax similar to a franchise tax; or

(c) any combination of Subsections (7)(a) and (b).

(8) "Person" is as defined in Section 59-12-102.

(9) "Taxable energy" means gas and electricity.

Amended by Chapter 142, 2010 General Session

10-1-304. Municipality and military installation development authority may levy tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Exemptions.

(1) (a) Except as provided in Subsections (4) and (5), a municipality may levy a municipal energy sales and use tax on the sale or use of taxable energy within the municipality:

(i) by ordinance as provided in Section 10-1-305; and

(ii) of up to 6% of the delivered value of the taxable energy.

(b) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may levy a municipal energy sales and use tax under this part within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.

(2) A municipal energy sales and use tax imposed under this part may be in addition to any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales and Use Tax Act.

(3) (a) For purposes of this Subsection (3):

(i) "Annexation" means an annexation to a municipality under Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a municipality.

(b) (i) If, on or after May 1, 2000, a city or town enacts or repeals a tax or

changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the municipality.

(ii) The notice described in Subsection (3)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(ii)(A), the new rate of the tax.

(c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will result in a change in the rate of a tax under this part for an annexing area, the change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

(ii) The notice described in Subsection (3)(c)(i)(B) shall state:

(A) that the annexation described in Subsection (3)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

(D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

(4) (a) Subject to Subsection (4)(b), a sale or use of electricity within a municipality is exempt from the tax authorized by this section if the sale or use is made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new source of alternative energy, as defined in Section 59-12-102, as designated in the tariff by the Public Service Commission of Utah.

(b) The exemption under Subsection (4)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (4)(a) that exceeds the tariff rate under the tariff described in Subsection (4)(a) that the customer would have paid absent the tariff.

(5) (a) A municipality may not levy a municipal energy sales and use tax within any portion of the municipality that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) Subsection (5)(a) does not apply to the military installation development authority's levy of a municipal energy sales and use tax.

Amended by Chapter 410, 2012 General Session

10-1-305. Municipal energy sales and use tax ordinance provisions.

Each municipal energy sales and use tax ordinance under Subsection 10-1-304(1) shall include:

(1) a provision imposing a tax on every sale or use of taxable energy made within a municipality at a rate determined by the municipality that is up to 6% of the delivered value of the taxable energy;

(2) provisions substantially the same as those required by Title 59, Chapter 12, Part 1, Tax Collection, as they relate to sales and use tax, except that:

(a) the tax shall be calculated on the delivered value of the taxable energy to the consumer;

(b) an exemption is not allowed from a tax imposed under this part for the sale or use of taxable energy that is exempt from the state sales and use tax under Title 59, Chapter 12, Part 1, Tax Collection, except that the municipality shall include in its ordinance an exemption for:

(i) the sales and use of aviation fuel, motor fuel, or special fuel subject to taxation under Title 59, Chapter 13, Motor and Special Fuel Tax Act;

(ii) the sales and use of taxable energy that the municipality is prohibited from taxing under federal law or the Constitution of the United States or the Utah Constitution;

(iii) the sales and use of taxable energy purchased or stored in the state for resale;

(iv) the sales or use of taxable energy to a person if the primary use is for use in compounding or producing taxable energy or a fuel subject to taxation under Title 59, Chapter 13, Motor and Special Fuel Tax Act;

(v) taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;

(vi) the sales or use of taxable energy for any purpose other than use as a fuel or energy; and

(vii) the sale of taxable energy for use outside a municipality imposing a municipality energy sales and use tax;

(c) the ordinance may provide for an exemption from the municipal energy sales and use tax under this part for customers who, as of July 1, 1997, were being supplied electrical energy by a supplier other than the municipality if:

(i) the municipality is a generator of electrical energy for customers within its borders; and

(ii) the municipality is unable to generate electrical energy for the customer;

(d) the name of the municipality as the taxing agency shall be substituted for that of the state when necessary for purposes of this part; and

(e) an additional license to collect the tax is not required if one has been issued under Section 59-12-106;

(3) a provision that, on or before the effective date of the ordinance, the municipality shall enter into a contract with the commission to have the commission perform all functions related to the administration or operation of the ordinance, except that a municipality may collect the municipal energy sales and use tax directly as provided in Subsection 10-1-307(3);

(4) a provision that:

(a) except as provided under Subsection (4)(b), the sale, storage, use, or other

consumption of taxable energy is exempt from the tax due under the ordinance if the delivered value of the taxable energy has been subject to a municipal energy sales or use tax under an ordinance enacted in accordance with this part by another municipality in this state; and

(b) the municipality shall be paid the difference between the tax paid to another municipality as described in this section and the tax that would otherwise be due under the ordinance if the tax due under the ordinance exceeds the tax paid to another municipality; and

(5) a provision providing a credit against the tax in the amount of a contractual franchise fee paid if:

(a) an energy supplier pays a contractual franchise fee to a municipality pursuant to a franchise agreement in effect on July 1, 1997;

(b) the contractual franchise fee is passed through by the energy supplier to a taxpayer as a separately itemized charge; and

(c) the energy supplier has accepted the franchise; and

(6) a provision providing that the ordinance adopts by reference any amendments to the provisions of Title 59, Chapter 12, Part 1, Tax Collection, that relate to levying or collecting a municipal energy sales and use tax.

Amended by Chapter 180, 1998 General Session

10-1-306. Rules for delivered value and point of sale.

(1) The delivered value of taxable energy under this part shall be established pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The rules made by the commission under Subsection (1):

(a) shall provide that an arm's length sales price for taxable energy sold or used by a taxpayer in the municipality is the delivered value, unless the sales price does not include some portion of the taxable energy or component of delivered value;

(b) shall establish one or more default methods for determining the delivered value for each customer class one time per calendar year on or before January 31 for taxable energy when the commission determines that the sales price does not accurately reflect delivered value; and

(c) shall provide that for purposes of determining the point of sale or use of taxable energy the location of the meter is normally the point of sale or use unless the taxpayer demonstrates that the use is not in a municipality imposing the municipal energy sales and use tax.

(3) In establishing a default method under Subsection (2)(b), the commission:

(a) shall take into account quantity discounts and other reductions or increases in value that are generally available in the marketplace for various grades or types of property and classes of services; and

(b) may consider:

(i) generally applicable tariffs for various classes of utility services approved by the Public Service Commission or other governmental entity;

(ii) posted prices;

(iii) spot-market prices;

(iv) trade publications;
(v) market data; and
(vi) other information and data prescribed by the commission.

Amended by Chapter 382, 2008 General Session

10-1-307. Administration, collection, and enforcement of taxes by commission -- Distribution of revenues -- Administrative charge -- Collection of taxes by municipality.

(1) (a) Subject to Subsection (1)(b) and except as provided in Subsection (3), the commission shall administer, collect, and enforce the municipal energy sales and use tax from energy suppliers according to the procedures established in:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for Sections 59-12-107.1 and 59-12-123.

(b) If an energy supplier pays a municipal energy sales and use tax to the commission, the energy supplier shall pay the municipal energy sales and use tax to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the energy supplier is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the energy supplier is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the energy supplier is required to file a sales and use tax return with the commission quarterly under Section 59-12-108.

(2) (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and 10-1-310(2) and subject to Subsection (6), the commission shall pay a municipality the difference between:

(i) the entire amount collected by the commission from the municipal energy sales and use tax authorized by this part based on:

(A) the point of sale of the taxable energy if a taxable sale occurs in a municipality that imposes a municipal energy sales and use tax as provided in this part; or

(B) the point of use of the taxable energy if the use occurs in a municipality that imposes a municipal energy sales and use tax as provided in this part; and

(ii) the administrative charge described in Subsection (2)(c).

(b) In accordance with Subsection (2)(a), the commission shall transfer to the municipality monthly by electronic transfer the revenues generated by the municipal energy sales and use tax levied by the municipality and collected by the commission.

(c) (i) Subject to Subsection (2)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a municipal energy sales and use tax under this part.

(ii) The commission may not retain or deposit an administrative charge from revenues a municipality collects under Subsection (3) from a tax under this part.

(3) An energy supplier shall pay the municipal energy sales and use tax revenues it collects from its customers under this part directly to each municipality in which the energy supplier has sales of taxable energy if:

(a) the municipality is the energy supplier; or

(b) (i) the energy supplier estimates that the municipal energy sales and use tax collected annually by the energy supplier from its Utah customers equals $1,000,000 or more; and

(ii) the energy supplier collects the tax imposed by this part.

(4) An energy supplier paying a tax under this part directly to a municipality may retain the percentage of the tax authorized under Subsection 59-12-108(2) for the energy supplier's costs of collecting and remitting the tax.

(5) An energy supplier paying the tax under this part directly to a municipality shall file an information return with the commission, at least annually, on a form prescribed by the commission.

(6) (a) As used in this Subsection (6):

(i) "2005 base amount" means, for a municipality that imposes a municipal energy sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2005.

(ii) "2006 base amount" means, for a municipality that imposes a municipal energy sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2006, reduced by the 2006 rebate amount.

(iii) "2006 rebate amount" means, for a municipality that imposes a municipal energy sales and use tax, the difference between:

(A) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2006; and

(B) the 2005 base amount, plus:

(I) 10% of the 2005 base amount; and

(II) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2006 attributable to an increase in the rate of the municipal energy sales and use tax implemented by the municipality during fiscal year 2006.

(iv) "2007 rebate amount" means, for a municipality that imposes a municipal energy sales and use tax, the difference between:

(A) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2007; and

(B) the 2006 base amount, plus:

(I) 10% of the 2006 base amount; and

(II) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2007 attributable to an increase in the rate of the municipal energy sales and use tax implemented by the municipality during fiscal year 2007.

(v) "Fiscal year 2005" means the period beginning July 1, 2004 and ending June 30, 2005.

(vi) "Fiscal year 2006" means the period beginning July 1, 2005 and ending June 30, 2006.

(vii) "Fiscal year 2007" means the period beginning July 1, 2006 and ending June 30, 2007.

(viii) "Gas supplier" means an energy supplier that supplies natural gas.

(ix) "Natural gas portion" means the amount of municipal energy sales and use tax proceeds attributable to sales and uses of natural gas.

(b) (i) In December 2006, each gas supplier shall reduce the natural gas portion of municipal energy sales and use gas proceeds to be paid to a municipality by the 2006 rebate amount.

(ii) If the 2006 rebate amount exceeds the amount of the natural gas portion of municipal energy sales and use tax proceeds for December 2006, the gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality each month thereafter until the 2006 rebate amount is exhausted.

(iii) For December 2006 and for each month thereafter that the gas supplier is required under Subsection (6)(b)(ii) to reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality:

(A) each municipality imposing a municipal energy sales and use tax shall provide the gas supplier with the amount by which its municipal energy sales and use tax rate applicable to the sales and uses of natural gas would need to be reduced in order to reduce the natural gas portion of municipal energy sales and use tax proceeds by the same amount as the reduction to the municipality; and

(B) each gas supplier shall reduce the municipal energy sales and use tax rate applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by the municipality.

(c) (i) In December 2007, each gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality by the 2007 rebate amount.

(ii) If the 2007 rebate amount exceeds the amount of the natural gas portion of municipal energy sales and use tax proceeds for December 2007, the gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality each month thereafter until the 2007 rebate amount is exhausted.

(iii) For December 2007 and for each month thereafter that the gas supplier is required under Subsection (6)(c)(ii) to reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality:

(A) each municipality imposing a municipal energy sales and use tax shall provide the gas supplier with the amount by which its municipal energy sales and use tax rate applicable to the sales and uses of natural gas would need to be reduced in order to reduce the natural gas portion of municipal energy sales and use tax proceeds by the same amount as the reduction to the municipality; and

(B) each gas supplier shall reduce the municipal energy sales and use tax rate applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by the municipality.

(d) Nothing in this Subsection (6) may be construed to require a reduction under Subsection (6)(b) or (c) if the rebate amount is zero or negative.

Amended by Chapter 309, 2011 General Session

10-1-308. Report of tax collections -- Allocation when location of taxpayer cannot be accurately determined.

(1) All municipal energy sales and use taxes collected under this part shall be reported to the commission on forms that accurately identify the municipality where the taxpayer is located.

(2) The commission shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to proportionally distribute all taxes collected if the municipality where the taxpayer is located cannot be accurately determined.

Amended by Chapter 382, 2008 General Session

10-1-310. Existing energy franchise taxes or contractual franchise fees.

(1) Except as authorized in Subsection (2), Section 59-12-203, or Section 10-1-304, a municipality may not:

(a) impose on, charge, or collect a franchise tax or contractual a franchise fee from an energy supplier; or

(b) collect a franchise tax or contractual franchise fee pursuant to a franchise agreement in effect on July 1, 1997.

(2) A municipality that collects a contractual franchise fee from an energy supplier pursuant to a franchise agreement in effect on July 1, 1997, may continue to collect that fee at the same rate for the remaining term of the franchise agreement, except the municipality shall provide a credit against the municipal energy sales and use tax in the amount of the contractual franchise fee paid by the energy supplier pursuant to Subsection 10-1-305(5).

(3) (a) Subject to the requirements of Subsection (3)(b), a franchise agreement as defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain a provision that:

(i) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; and

(ii) imposes the contractual franchise fee on or after the day on which Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act is:

(A) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-304 is reduced; and

(B) is not superseded by a law imposing a substantially equivalent tax.

(b) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(a) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.

(4) This section may not affect the validity of any existing or future franchise agreement and any franchise agreement effective on July 1, 1997, shall remain in full force and effect, unless otherwise terminated or altered by agreement or applicable law.

Enacted by Chapter 280, 1996 General Session

10-1-401. Title.

This part is known as the "Municipal Telecommunications License Tax Act."

Enacted by Chapter 253, 2003 General Session

10-1-402. Definitions.

As used in this part:

(1) "Commission" means the State Tax Commission.

(2) (a) Subject to Subsections (2)(b) and (c), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.

(b) For purposes of this section and Section 10-1-407, "customer" means:

(i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or

(ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of telecommunications service.

(c) "Customer" does not include a reseller:

(i) of telecommunications service; or

(ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

(3) (a) "End user" means the person who uses a telecommunications service.

(b) For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

(4) (a) "Gross receipts from telecommunications service" means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:

(i) a tax, fee, or charge:

(A) imposed by a governmental entity;

(B) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and

(C) imposed only on a telecommunications provider;

(ii) sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and Use Tax Act; or

(iii) interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.

(b) "Gross receipts from telecommunications service" includes a charge necessary to complete a sale of a telecommunications service.

(5) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(6) "Municipality" means a city or town.

(7) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(8) Notwithstanding where a call is billed or paid, "service address" means:

(a) if the location described in this Subsection (8)(a) is known, the location of the telecommunications equipment:

(i) to which a call is charged; and

(ii) from which the call originates or terminates;

(b) if the location described in Subsection (8)(a) is not known but the location described in this Subsection (8)(b) is known, the location of the origination point of the signal of the telecommunications service first identified by:

(i) the telecommunications system of the telecommunications provider; or

(ii) if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or

(c) if the locations described in Subsection (8)(a) or (b) are not known, the location of a customer's place of primary use.

(9) (a) Subject to Subsections (9)(b) and (9)(c), "telecommunications provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; or

(ii) engages in an activity described in Subsection (9)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (9)(a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(c) "Telecommunications provider" does not include an aggregator as defined in Section 54-8b-2.

(10) "Telecommunications service" means:

(a) telecommunications service, as defined in Section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(b) mobile telecommunications service, as defined in Section 59-12-102:

(i) that originates and terminates within the boundaries of one state; and

(ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(c) an ancillary service as defined in Section 59-12-102.

(11) (a) Except as provided in Subsection (11)(b), "telecommunications tax or fee" means any of the following imposed by a municipality on a telecommunications provider:

(i) a tax;

(ii) a license;

(iii) a fee;

(iv) a license fee;

(v) a license tax;

(vi) a franchise fee; or

(vii) a charge similar to a tax, license, or fee described in Subsections (11)(a)(i) through (vi).

(b) "Telecommunications tax or fee" does not include:

(i) the municipal telecommunications license tax authorized by this part; or

(ii) a tax, fee, or charge, including a tax imposed under Title 59, Revenue and Taxation, that is imposed:

(A) on telecommunications providers; and

(B) on persons who are not telecommunications providers.

Amended by Chapter 384, 2008 General Session

10-1-403. Municipality and military installation development authority may levy municipal telecommunications license tax -- Recovery from customers -- Enactment, repeal, or change in rate of tax -- Annexation.

(1) (a) (i) Subject to the provisions of this section, beginning July 1, 2004, a municipality may levy on and provide that there is collected from a telecommunications provider a municipal telecommunications license tax on the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality in accordance with Section 10-1-407.

(ii) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may levy and collect a municipal telecommunications license tax under this part for telecommunications service provided within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.

(b) To levy and provide for the collection of a municipal telecommunications license tax under this part, the municipality shall adopt an ordinance that complies with the requirements of Section 10-1-404.

(c) Beginning on July 1, 2007, a municipal telecommunications license tax imposed under this part shall be at a rate of up to 3.5% of the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality in accordance with Section 10-1-407.

(2) A telecommunications provider may recover the amounts paid in municipal telecommunications license taxes from the customers of the telecommunications provider within the municipality imposing the municipal telecommunications license tax through a charge that is separately identified in the statement of the transaction with the customer as the recovery of a tax.

(3) (a) For purposes of this Subsection (3):

(i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a municipality.

(b) (i) If, on or after July 1, 2004, a municipality enacts or repeals a tax or changes the rate of the tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice

meeting the requirements of Subsection (3)(b)(ii) from the municipality.

(ii) The notice described in Subsection (3)(b)(i)(B) shall state:

(A) that the municipality will enact or repeal a tax under this part or change the rate of the tax;

(B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

(D) if the municipality enacts the municipal telecommunications license tax or changes the rate of the tax, the new rate of the tax.

(c) (i) If, for an annexation that occurs on or after July 1, 2004, the annexation will result in a change in the rate of the tax under this part for an annexing area, the change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

(ii) The notice described in Subsection (3)(c)(i)(B) shall state:

(A) that the annexation described in Subsection (3)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

(D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

(4) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal telecommunications license tax rate that takes effect on July 1, 2007, a municipality is not subject to the notice requirements of Subsection (3)(b) if:

(a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that exceeds 3.5%; and

(b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate of 3.5%.

(5) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal telecommunications license tax rate that takes effect on July 1, 2007, the 90-day period described in Subsection (3)(b)(i)(B) is considered to be a 30-day period if:

(a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that exceeds 3.5%; and

(b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that is less than 3.5%.

(6) (a) A municipality may not levy or collect a municipal telecommunications license tax for telecommunications service provided within any portion of the municipality that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) Subsection (6)(a) does not apply to the military installation development authority's levy of a municipal telecommunications license tax.

Amended by Chapter 92, 2009 General Session

10-1-404. Municipal telecommunications license tax ordinance provisions.

An ordinance required by Subsection 10-1-403(1) shall include a provision that:

(1) levies a municipal telecommunications license tax:

(a) on the gross receipts from telecommunications service attributed to the municipality in accordance with Section 10-1-407;

(b) at a rate:

(i) not to exceed the rate specified in Subsection 10-1-403(1)(c); and

(ii) subject to the requirements of Section 10-1-407; and

(c) beginning on a date:

(i) on or after July 1, 2004; and

(ii) subject to the requirements of Section 10-1-403;

(2) on or before the effective date of the ordinance, the municipality shall enter into the uniform interlocal agreement with the commission described in Section 10-1-405 under which the commission collects, enforces, and administers the municipal telecommunications license tax;

(3) exempts a municipality from the limitation on the rate that may be imposed under Subsection (1)(b)(i) if the exemption from the limitation on the rate that may be imposed under Subsection (1)(b)(i) is approved by a majority vote of the voters in the municipality that vote in:

(a) a municipal general election; or

(b) a regular general election; and

(4) incorporates the provisions of Section 10-1-408.

Amended by Chapter 415, 2013 General Session

10-1-405. Collection of taxes by commission -- Uniform interlocal agreement -- Administrative charge -- Rulemaking authority.

(1) Subject to the other provisions of this section, the commission shall collect, enforce, and administer any municipal telecommunications license tax imposed under this part pursuant to:

(a) the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection:

(A) except for:

(I) Subsection 59-12-103(2)(i);

(II) Section 59-12-104;

(III) Section 59-12-104.1;

(IV) Section 59-12-104.2;

(V) Section 59-12-104.3;

(VI) Section 59-12-107.1; and

(VII) Section 59-12-123; and

(B) except that for purposes of Section 59-1-1410, the term "person" may include a customer from whom a municipal telecommunications license tax is recovered in accordance with Subsection 10-1-403(2); and

(b) a uniform interlocal agreement between the municipality that imposes the municipal telecommunications license tax and the commission:

(i) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;

(ii) that complies with Subsection (2)(a); and

(iii) that is developed by rule in accordance with Subsection (2)(b).

(2) (a) The uniform interlocal agreement described in Subsection (1) shall provide that the commission shall:

(i) transmit money collected under this part monthly by electronic funds transfer by the commission to the municipality;

(ii) conduct audits of the municipal telecommunications license tax;

(iii) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a tax under this part; and

(iv) collect, enforce, and administer the municipal telecommunications license tax authorized under this part pursuant to the same procedures used in the administration, collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall develop a uniform interlocal agreement that meets the requirements of this section.

(3) If a telecommunications provider pays a municipal telecommunications license tax to the commission, the telecommunications provider shall pay the municipal telecommunications license tax to the commission:

(a) monthly on or before the last day of the month immediately following the last day of the previous month if:

(i) the telecommunications provider is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(ii) the telecommunications provider is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the telecommunications provider is required to file a sales and use tax return with the commission quarterly under Section 59-12-108.

(4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal telecommunications license tax under this part at a rate that exceeds 3.5%:

(a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission shall collect the municipal telecommunications license tax:

(i) within the municipality;

(ii) at a rate of 3.5%; and

(iii) from a telecommunications provider required to pay the municipal telecommunications license tax on or after July 1, 2007; and

(b) the commission shall collect a municipal telecommunications license tax within the municipality at the rate imposed by the municipality if:

(i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax under this part at a rate of up to 3.5%;

(ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing the rate of the municipal telecommunications license tax; and

(iii) a telecommunications provider is required to pay the municipal telecommunications license tax on or after the day on which the ordinance described in Subsection (4)(b)(ii) takes effect.

Amended by Chapter 424, 2012 General Session

10-1-406. Limitation of other telecommunications taxes or fees.

(1) Subject to the other provisions of this section, a municipality may not levy or collect a telecommunications tax or fee on a person except for a telecommunications tax or fee imposed by the municipality:

(a) on a telecommunications provider to recover the management costs of the municipality caused by the activities of the telecommunications provider in the right-of-way of a municipality if the telecommunications tax or fee:

(i) is imposed in accordance with Section 72-7-102; and

(ii) is not related to:

(A) a municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right-of-way; or

(B) increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of-way; or

(b) on a person that:

(i) is not subject to a municipal telecommunications license tax under this part; and

(ii) locates telecommunications facilities, as defined in Section 72-7-108, in the municipality.

(2) Subsection (1)(a) may not be interpreted as exempting a telecommunications provider from complying with any ordinance:

(a) related to excavation, construction, or installation of a telecommunications facility; and

(b) that addresses the safety and quality standards of the municipality for excavation, construction, or installation.

(3) A telecommunications tax or fee imposed under Subsection (1)(b) shall be imposed:

(a) by ordinance; and

(b) on a competitively neutral basis.

Enacted by Chapter 253, 2003 General Session

10-1-407. Attributing the gross receipts from telecommunications service to a municipality -- Rate impact.

(1) The gross receipts from a telecommunications service are attributed to a municipality if the gross receipts are from a transaction for telecommunications service that is located within the municipality:

(a) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) determined in accordance with Section 59-12-215.

(2) (a) The rate imposed on the gross receipts for telecommunications service shall be determined in accordance with Subsection (2)(b) if the location of a transaction for telecommunications service is determined under Subsection (1) to be a municipality other than the municipality in which is located:

(i) for telecommunications service other than mobile telecommunications service, the customer's service address; or

(ii) for mobile telecommunications service, the customer's primary place of use.

(b) The rate imposed on the gross receipts for telecommunications service described in Subsection (2)(a) shall be the lower of:

(i) the rate imposed by the taxing jurisdiction in which the transaction is located under Subsection (1); or

(ii) the rate imposed by the municipality in which it is located:

(A) for telecommunications service other than mobile telecommunications service, the customer's service address; or

(B) for mobile telecommunications service, the customer's primary place of use.

Amended by Chapter 384, 2008 General Session

10-1-408. Procedure for taxes erroneously recovered from customers.

A customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer municipal telecommunications license taxes authorized by this part unless the customer meets the same requirements that a purchaser is required to meet to bring a cause of action against a seller for a refund or credit as provided in Subsection 59-12-110.1(3).

Amended by Chapter 255, 2004 General Session

10-1-410. Transactions consisting of telecommunications service and nontelecommunications services.

(1) For purposes of this section, "nontelecommunications services" means services or tangible personal property that are:

(a) not telecommunications service; and

(b) provided by a telecommunications provider to a customer.

(2) Except to the extent prohibited by federal law, if a telecommunications provider provides nontelecommunications services to a customer as part of the same transaction in which the telecommunications provider provides telecommunications service, the gross receipts from the nontelecommunications services provided by the telecommunications provider are subject to a tax under this part unless:

(a) the charge for the nontelecommunications services is separately identified in the statement of the transaction with the customer of the telecommunications service; or

(b) from the books and records of the telecommunications provider that are kept in the regular course of business, the telecommunications provider can reasonably identify the portion of the total charge for the transaction that is attributable to:

(i) the nontelecommunications services; and

(ii) the telecommunications service.

Enacted by Chapter 253, 2003 General Session